

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17567
[Redacted],)	
)	DECISION
Petitioners.)	
_____)	

On July 2, 2003, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination (NODD) to [Redacted](taxpayers), proposing income tax, penalty, and interest for tax years 1997 through 2001 in the total amount of \$23,246.

The taxpayers protested the determination and submitted four years of completed Idaho income tax returns. No other information was provided. The Tax Commission, having reviewed the file, hereby issues its decision based thereon.

Information available to the Tax Commission indicated the taxpayers were Idaho residents who met the filing requirements during the years in question. Because the Tax Commission's files did not include the taxpayers' income tax returns, the Bureau prepared Idaho individual income tax returns for the taxpayers and issued a NODD to them.

The taxpayers protested that determination stating they had additional deductions and exemptions available to them. In that letter signed by [Redacted] said he expected to complete and submit the missing returns by September 30, 2003. Subsequently, the taxpayers' returns for the years 1997 through 2000 were received, and the Bureau cancelled the portion of the NODD addressing the years 1997 through 2000.

In a letter dated November 17, 2003, [Redacted] advised that the taxpayers wanted to continue with their appeal to the determination for 2001 and asked for additional time because he had not received the copy of his 2001 W-2 that he had requested from a former employer.

When the missing return was not submitted as promised, the taxpayer's file was transferred to the Legal/Tax Policy Division for administrative review. In response to a letter from the Tax Appeals Specialist that outlined their appeal rights, [Redacted] again asked for additional time. He said he would have the taxpayers' 2001 Idaho return completed by March 15. However, that return was not delivered to the Tax Commission for filing.

Idaho Code § 63-3002 defines the intent of the Idaho legislature regarding Idaho income tax:

63-3002. Declaration of intent. -- It is the intent of the legislature by the adoption of this act, insofar as possible to make the provisions of the Idaho act identical to the provisions of the Federal Internal Revenue Code relating to the measurement of taxable income, to the end that the taxable income reported each taxable year by a taxpayer to the internal revenue service shall be the identical sum reported to this state, subject only to modifications contained in the Idaho law; . . .

Idaho Code § 63-3030 establishes the requirement for filing Idaho income tax returns:

63-3030. Persons required to make returns of income. -- (a) Returns with respect to taxes measured by income in this chapter shall be made by the following:

- (1) Every resident individual required to file a federal return under section 6012(a)(1) of the Internal Revenue Code.
- (2) Any nonresident individual having for the current taxable year a gross income from Idaho sources in excess of two thousand five hundred dollars (\$2,500), or any part-year resident individual having for the current taxable year a gross income from all sources while domiciled in or residing in Idaho, and from Idaho sources while not domiciled in and not residing in Idaho, which in total are in excess of two thousand five hundred dollars (\$2,500);

The taxpayers do not deny the law requires them to file a 2001 Idaho income tax return. They did not file that return, so the bureau prepared a return on their behalf using the Idaho income information contained in W-2s and 1099s [Redacted] and other information retained by the Tax Commission. [Redacted].

The Bureau calculated the taxpayer's Idaho tax using the standard deduction and two exemptions. No withholding was identified. Interest and penalty was added pursuant to Idaho Code §§ 63-3045 and 63-3046. The Tax Commission reviewed those additions and found them proper and in accordance with Idaho Code.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Comm'n, 110 Idaho 572 (Ct. App. 1986). The burden is on the taxpayers to show that the tax deficiency is erroneous. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

Absent information to the contrary, the Tax Commission accepts the Bureau's calculation of Idaho income tax, penalty, and interest for 2001.

WHEREFORE, the Notice of Deficiency Determination dated July 2, 2003, is hereby MODIFIED and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2001	\$1,109	\$277	\$130	\$1,516

Interest is calculated through April 15, 2004.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayers' right to appeal this decision is enclosed with this decision.

DATED this ____ day of _____, 2004.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this _____ day of _____, 2004, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]
[REDACTED]

Receipt No.
